

IN THE UNITED STATES COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

MOHAMED ELERAKY, M.D.

PLAINTIFF

VS.

CAUSE NO. 3:15-CV-509 TSL-RHW

ROBERT A. MCDONALD, IN HIS OFFICIAL
CAPACITY AS SECRETARY OF THE UNITED
STATES DEPARTMENT OF VETERANS AFFAIRS;
JOE BATTLE; DAVID WALKER, M.D., RONALD
BRASWELL, M.D.; AND JOHN DOES 1-10

DEFENDANTS

PLAINTIFF'S RESPONSE TO DEFENDANT'S
FIRST MOTION TO CONTINUE TRIAL

COMES NOW plaintiff, Mohamed Eleraky, M.D., by and through his attorneys of record, and in opposition to the Defendant's First Motion to Continue Trial would state as follows:

1. Defendant has requested a continuance of the matter currently set for trial on May 14, 2018, alleging various grounds. None of these grounds justifies a continuance.
2. Defendant has requested a continuance because the lead attorney was in a car accident on Thursday, April 26. However, the attorneys for the plaintiff have not been provided any information regarding the severity of the injuries, such as hospitalization or upcoming diagnostic tests or evaluation, which would justify a continuance. In the absence of such information, plaintiff opposes the continuance.
3. The fact that there are various matters pending for the Court's consideration does not justify continuance. Rulings can be made prior to trial. Further, although the parties have not yet participated in a pre-trial conference, the plaintiff has submitted to the defendant an initial draft of a pre-trial order, but has not yet received any additional inserts.
4. Since the filing of this motion, plaintiff's counsel has talked with the plaintiff, who is opposed to a continuance and believes that this motion is being made for the purposes of attempting to gather additional untimely information to use against him at this trial.

5. Plaintiff requests the defendant's First Motion to Continue Trial be denied.

Respectfully submitted,

MOHAMED ELERAKY M.D.

BY: /s/ Whitman B. Johnson III
WHITMAN B. JOHNSON III (MSB #3158)
G. SPENCER BEARD, JR. (MSB #102037)

OF COUNSEL:

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CERTIFICATE OF SERVICE

I, Whitman B. Johnson III, do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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Dated, this the 30th day of April, 2018.

/s/ Whitman B. Johnson III
WHITMAN B. JOHNSON III